

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFERY DONEL ROBINSON,
Plaintiff,
v.
C. CRYER, L. MERRITT,
Defendants.

No. 1:20-cv-00622-HBK (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO APPOINT COUNSEL

Doc. No. 9

Pending before the Court is Plaintiff's motion for leave to appoint counsel (Doc. No. 9), filed July 31, 2020. Plaintiff filed this case by initiating an action under 42 U.S.C. § 1983 as a prisoner proceeding *pro se* on July 15, 2020. *See* Doc. No. 1. The Court granted Plaintiff's motion for leave to proceed *in forma pauperis* on July 17, 2020. *See* Doc. No. 7.

Plaintiff seeks appoint of counsel and lists numerous reasons, including, but not limited to that: he is unable to afford counsel, his imprisonment will limit his ability to litigate the case, and a trial will result in conflicting testimony. *See* Doc. No. 9 at 1-2.

The United States Constitution does not require appointment of counsel in civil cases. *See Lewis v. Casey*, 518 U.S. 343, 354 (1996) (explaining *Bounds v. Smith*, 430 U.S. at 817, did not create a right to appointment of counsel in civil cases). Under 28 U.S.C. § 1915, this Court has

1 discretionary authority to appoint counsel for an indigent to commence, prosecute, or defend a civil
2 action. *See* 28 U.S.C. § 1915(e)(1) (stating the court has authority to appoint counsel for people
3 unable to afford counsel); *see also United States v. McQuade*, 519 F.2d 1180 (9th Cir. 1978)
4 (addressing relevant standard of review for motions to appoint counsel in civil cases) (other
5 citations omitted). However, motions to appoint counsel in civil cases are granted only in
6 “exceptional circumstances.” *Id.* at 1181. The Court may consider many factors including, but not
7 limited to, proof of indigence, the likelihood of success on the merits, and the ability of the plaintiff
8 to articulate his or her claims *pro se* in light of the complexity of the legal issues involved, to
9 determine if exceptional circumstances warrant appointment of counsel. *Id.*; *see also Rand v.*
10 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh’g en*
11 *banc*, 154 F.2d 952 (9th Cir. 1998).

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14 Here, the Court does not find exceptional circumstances warrant appointment of counsel for
15 Plaintiff. Although Plaintiff is proceeding *pro se* and is incarcerated, he faces the same obstacles
16 all *pro se* prisoners face. A review of the pleadings filed by Plaintiff further show he can articulate
17 his claims.

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19 Accordingly, it is now **ORDERED**:

20 Plaintiff’s motion to appoint counsel (Doc. No. 9) is **DENIED**.

21 IT IS SO ORDERED.

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23 Dated: January 11, 2021

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25 HELENA M. BARCH-KUCHTA
26 UNITED STATES MAGISTRATE JUDGE
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